

**Zoning Board of Appeals Minutes  
October 27, 2020**

<b>ZBA MEMBERS</b>	<b>ZBA MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>
Jim Racheff- Chair Lawrence Aronow Steve West Bob Sisson-Alternate Member	Kenneth Ying	Gabrielle Collard, Division Manager of Current Planning Carreanne Eyler, Office Manager Joe Adkins, Director of Planning & Community Development Stephen Davis, Assistant City Attorney Sherry Kelly, Planner II Jessica Murphy, Administrative Assistant

**I. ANNOUNCEMENTS: None**

**II. GENERAL PUBLIC COMMENT: None**

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**III. APPROVAL OF MINUTES:**

Approval of the **September 22, 2020** Zoning Board of Appeals Meeting Minutes as published:

**MOTION:** Mr. Sisson moved for approval of the **September 22, 2020** hearing minutes.

**SECOND:** Mr. West

**VOTE:** 4-0

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**IV. PUBLIC HEARING-SWEARING IN:**

*“Do you solemnly swear or affirm that the responses given, and statements made in this hearing before the Zoning Board of Appeals will be the whole truth and nothing but the truth.” If so, answer “I do”.*

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**V. CONTINUANCES: None**

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**VI. OLD BUSINESS: None**

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**VII. NEW BUSINESS:**

**A. ZBA20-611CU, Conditional Use, 1800 Weybridge Road**

**MOTION:** Mr. West moved for approval of the conditional use request for a Small Child Care Center at 1800 Weybridge Road, finding that:

1. The proposed use is in harmony with the Economic Development Element, Policy 1 of the 2010 Comprehensive Plan, which is to support small businesses and entrepreneurs, and the Land Management Code;
2. Based on the documentation provided by the Applicant, the characteristics of the use and its operation on the Property and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval;
3. The proposed use complies with the requirements set forth in Section 811, Child Day Care Center, subsection (d) as follows:
  1. The Applicant has provided guarantees that the proposed Small Child Care Center will not constitute a nuisance, nor be disruptive to the neighborhood due to the number of children being cared for, noise, traffic, or any other activity associated with the use and that there are no other commercial childcare centers or other Small Child Care Centers within a 500-foot radius of the existing facility proposed for expansion;
  2. That the Small Child Care Center will not have any nonresident employees, however, should the Applicant choose to employ one, adequate off-street parking is available for the one employee;
  3. That the site has sufficient pickup and drop-off areas available;
  4. That the number of children cared for at the facility will be limited as a condition of approval to one per 1,000 square feet of lot area;
  5. That as a condition of approval, the Applicant must present a childcare licensing certificate and inspection report from the Child Care Administration of the State of Maryland.

With the conditions that:

1. No more than 11 children may be cared for due to the size of the Property, in accordance with Section 811(d)(4);
2. The Applicant provide a childcare licensing certificate and inspection report from the Child Care Administration of the State of Maryland.
3. The Applicant apply for and receive a zoning certificate within two years of the decision by the ZBA in accordance with Section 312(g) of the LMC and that the zoning certificate state that no more than 10 children are permitted.

**SECOND:** Mr. Sisson

**VOTE:** 4-0

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**B. ZBA20-784V, Variance, 1 Western Drive**

**MOTION:** Mr. West moved for approval of the following variances requests for case ZBA20-784V, under the powers granted to the Board by Section 203 of the Land Management Code:

1. A variance to increase the maximum amount of signage allowed for the lot from 220 sf to 268 sf, an increase of 48 sf; and
2. A variance to the maximum amount of attached/building mounted signage allowed from 100% of the building frontage, or 110 sf, to 243% of the building frontage or 268 sf, an increase of 143%.

Finding that:

1. The variances to are not contrary to the public interest as they will allow for the reasonable communication of information to the traveling public in a manner that is consistent with the character of the commercial corridor without creating visual clutter that is distracting or that creates obstructions.
2. That the lot configuration and the resulting building orientation on the lot, which reflects goals and policy actions of the Golden Mile Small Area Plan, create an extraordinary situation specific to the Property under which, the strict application of the regulations result in peculiar or unusual practical difficulties to, or exception to or undue hardship upon, the owner.
3. That in seeking approval for only building mounted signage and eliminating any freestanding signage, the variances requested are the minimum reasonably necessary to overcome the unique characteristic of the site.
4. That the literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the GC zoning district under the terms of the Code and would prevent the reasonable use of the property and its viability as a commercial use.
5. That granting the variances will not confer a special privilege on the Applicant that is denied by the LMC to other lands or structures in the same district due to the unique circumstances impacting the Property;
6. That granting the variances will be in harmony with the general purpose and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
7. That the Applicant has not created or caused to be created the situation which necessitates the variances requested from the ZBA.

**SECOND:** Mr. Sisson

**VOTE:** 4-0

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**C. ZBA20-786CU, Conditional Use, Prospect Hall - 889 Butterfly Lane**

**MOTION:** Mr. Sisson moved for approval of the conditional use request for the Commercial Use of a Historic Structure at 889 Butterfly Lane for the purposes of a Reception Facility, Recreation, Social Service Center, and Farmer's Market finding that:

1. The proposed uses introduce complementary nonresidential uses in a predominately residential area and promote the enhancement and use of a historically significant resource and the Applicant has demonstrated compliance with the applicable conditional use criteria and as such, the request is in harmony with both the City's 2010 Comprehensive Plan and the Land Management Code, respectively.
2. That the proposed use as a place intended for people to congregate for recreation, entertainment, cultural, and festival activities is consistent with the use of public and private parks permitted by right in the R12 zoning district.
3. The Applicant has documented compliance with the criteria specific for the requested conditional use of a Commercial Use of a Historic Structure as outlined in Section 813 of the Code, which are as follows:
  1. That the proposed uses are functionally similar to those enumerated in Section 813(c), Permitted Uses, and none of the requested uses are permitted "by right" or as a conditional use in the R12 district;

2. That pending approval of the conditional use request, the Applicant will be required to receive a recommendation from the Historic Preservation Commission to the Planning Commission for their consideration during the final site plan review required in accordance with Section 309 of the LMC;
3. The Applicant has provided guarantees that the use will not constitute a nuisance or otherwise be disruptive to the neighborhood because of increased traffic, noise, odor, or other activity associated with the commercial activity.
4. That the Applicant has demonstrated that the site will provide more than the minimum required parking for the proposed uses in accordance with Section 607 of the LMC;
5. That any future signage must be in compliance with Section 813(g) of the Land Management Code and will be evaluated further at site plan and building permit application.
6. That through subsequent stages of the development process the Applicant must demonstrate compliance with all other applicable State, County, and City regulations including the Land Management Code and the Adequate Public Facilities Ordinance (APFO).

With the conditions that:

1. The Applicant will provide a Level II screening buffer along the rear property line in the vicinity of the outdoor courtyard to include a 6' tall wall, unless its height is otherwise increased by the Planning Commission under the modification authority established under Section 821 of the Land Management Code, and landscaping in accordance with Section 605, Table 605-1 Buffer Categories and Specifications.
2. Ingress and egress for visitors and patrons to the site will be through an access drive from Butterfly Lane, the exact location, width, and design of which to be approved by the Planning Commission at the time of final site plan approval, and that only deliveries, trash collection, and pedestrian access to the site be allowed at the rear access on Acropolis Way.
3. That the Applicant will provide no less than 72 parking spaces, inclusive of ADA accessible spaces and any parking that is designed with alternative paving materials, on the site and that one bicycle parking space will be provided per 10 vehicular spaces, for no less than ten bicycle parking spaces.
4. In accordance with Section 312(g) of the LMC, Zoning Board of Appeals Decisions, a development approval by the Board expires two years after the date of approval unless the use is established or a zoning certificate is issued and construction has begun in accordance with the terms of the decision.
5. Within one year of the issuance of the zoning certificate, the staff will report to the Zoning Board of Appeals if there have been reports of difficulties related to insufficient parking on the site.

**SECOND:** Mr. Aronow

**VOTE:** 4-0

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## **VIII. BOARD BUSINESS:**

### **D. Election of Officers**

**MOTION:** Mr. Sisson moved to continue the Election of Officers till the November 24, 2020 ZBA hearing.

**SECOND:** Mr. Aronow

**VOTE:** 4-0

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## **IX. ITEMS ADDED TO AGENDA**

**Zoning Determinations Completed:**

- **ZBA20-676ZD**, 990 Waterford Drive
  - **ZBA20-766ZD**, 260 Interstate Circle
  - **ZBA20-772ZD**, 2060 Yellow Springs Rd.
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**X. ADJOURNMENT**

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**Meeting adjourned approximately at 9:20 p.m.**

Respectfully Submitted,  
Jessica Murphy  
Administrative Assistant

APPROVED 03/23/2021